

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO

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TONY PRIMM, :  
Petitioner, : CASE NO. 1:18-cv-2498  
vs. : OPINION AND ORDER  
[Resolving Doc. 1]  
MIKE DEWINE, :  
Respondent. :  
:

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JAMES S. GWIN, UNITED STATES DISTRICT JUDGE:

On October 29, 2018, Petitioner Tony Primm, an Ohio inmate serving life without parole plus 85 years for aggravated murder and other offenses, asks this Court for federal habeas corpus relief under 28 U.S.C. § 2254.<sup>1</sup> The Court referred the matter to Magistrate Carmen E. Henderson.

On July 2, 2021, Magistrate Judge Henderson issued a Report and Recommendation (“R&R”) finding Primm’s § 2254 petition untimely.<sup>2</sup> Magistrate Judge Henderson accordingly recommended that Primm be denied § 2254 relief and a certificate of appealability. Objections to the R&R were due by July 16, 2021.<sup>3</sup> Petitioner Primm filed no objections.

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<sup>1</sup> Doc. 1.

<sup>2</sup> Doc. 11.

<sup>3</sup> *Id.*

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The Federal Magistrates Act requires a district court to review *de novo* only the objected-to portions of an R&R.<sup>4</sup> Failure to timely object waives a party's right to contest the R&R.<sup>5</sup> Where a party does not object to the R&R, the Court may adopt it without review.<sup>6</sup>

Here, Petitioner Primm has waived his right to contest the R&R by failing to file timely objections.<sup>7</sup> Additionally, this Court has examined the petition and the return and agrees that Petitioner Primm's § 2254 petition was untimely.<sup>8</sup> The Court also finds that reasonable jurists would not debate the denial of Primm's petition on untimeliness grounds.<sup>9</sup>

Accordingly, given Petitioner Primm's decision not to object to the R&R in this case and the petition's lack of merit, the Court **ADOPTS** Magistrate Judge Henderson's R&R, incorporates it as if fully restated herein, and **DENIES** Petitioner Primm's § 2254 habeas petition and the requested certificate of appealability.

IT IS SO ORDERED.

Dated: July 23, 2021

s/ James S. Gwin  
JAMES S. GWIN  
UNITED STATES DISTRICT JUDGE

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<sup>4</sup> 28 U.S.C. § 636(b)(1).

<sup>5</sup> *Thomas v. Arn*, 474 U.S. 140, 154 (1985); *Gerth v. Warden, Allen Oakwood Corr. Inst.*, 938 F.3d 821, 827 (6th Cir. 2019).

<sup>6</sup> See *Thomas*, 474 U.S. at 149–50.

<sup>7</sup> *Id.*

<sup>8</sup> Doc. 11 at 5–10.

<sup>9</sup> *Id.* at 10; *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).